CONFERENCE ON DISARMAMENT

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LETTER DATED 6 FEBRUARY 1995 FROM THE PERMANENT REPRESENTATIVE OF ROMANIA ADDRESSED TO THE SECRETARY-GENERAL OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE TEXT OF THE ACT ADOPTED BY THE PARLIAMENT OF ROMANIA ON THE IMPORT AND EXPORT REGIME FOR STRATEGIC GOODS

I have the honour to forward to you the attached Act No. 93 for the Approval of Government Ordinance No. 31 of 29 July 1994 on the import and export regime for strategic goods, adopted by the Parliament of Romania on 10 November 1994.

I would be most grateful if, in accordance with the established practice, you would arrange for this Act to be issued as an official document of the Conference on Disarmament and circulated to all delegations, both of member and of observer States.

(Signed) Romulus NEAGU

Ambassador
Permanent Representative of
Romania

GE.95-60528 (E)

Annex

THE PARLIAMENT OF ROMANIA

THE CHAMBER OF DEPUTIES — THE SENATE

ACT

for the approval of Government Ordinance No. 31 of 29 July 1994 on the import and export regime for strategic goods

The Parliament of Romania passes the following Act:

Single Article. - Government Ordinance No. 31 of 29 July 1994 on the import and export regime for strategic goods, adopted under Article 1 (f) of Act No. 72/1994 on empowering the Government to issue ordinances, published in the Official Gazette of Romania, Part I, No. 218 of 16 August 1994, is hereby approved with Article 16 (4) amended to read as follows:

"(4) The persons referred to in Article 4 are required to retain the documents relating to the strategic goods imported or exported for 15 years".

This law was adopted by the Senate at its meeting on 31 October 1994, in accordance with the provisions of Article 74 (2) of the Constitution of Romania.

THE CHAIRMAN OF THE SENATE

OLIVIU GHERMAN

This Act was adopted by the Chamber of Deputies at its meeting on 1 November 1994, in accordance with the provisions of Article 74 (2) of the Constitution of Romania.

for THE CHAIRMAN OF THE CHAMBER OF DEPUTIES

IOAN GAVRA

Bucharest, 10 November 1994
No. 93

GOVERNMENT OF ROMANIA

Ordinance

on the import and export regime for strategic goods

In exercise of the powers conferred by article 107, paragraphs (1) and (3), of the Constitution of Romania and article 1 (f) of Act No. 72/1994 on commissioning the Government to issue Ordinances

THE GOVERNMENT OF ROMANIA

issues the following

Ordinance

Section I

General provisions

Article 1

1. Imports and exports of strategic goodare controlled under the provisions of the present Ordinance and may be authorized by licence.

2. Under the provisions of the present Ordinance "strategic goods" means:

(a) Industrial goods, high technologies and services that may have dual use (civilian and military);

(b) Weaponry, munitions and other military equipment;

(c) Goods, high technologies and services related to nuclear, chemical and biological weapons and missiles carrying such weapons;

(d) Other goods, technologies and services under special control due to Romania's international commitments.

3. The strategic goods lists are decided upon by means of Government Decisions.

Article 2

The control of imports and exports of strategic goods is carried out in compliance with:

(a) The fundamental directions of Romania's foreign policy;

(b) National economic and security interests;

(c) The objective of non-proliferation of weapons of mass destruction, missiles carrying such weapons and other strategic goods used for military purposes;

(d) The international agreements to which Romania is party;

(e) The international commitments Romania has pledged to abide by;

(f) The principle of cooperation with countries that promote a similar non-proliferation policy in this domain.

Article 3

The National Agency for the Control of Strategic Exports and Prohibition of Chemical Weapons, as the Government's specialized body, hereinafter called the Agency, is responsible for implementing the provisions of the present Ordinance.

Article 4

1. The provisions of the present Ordinance are applicable to all persons undertaking import or export activities relating to strategic goods.

2. "Person" means any natural or legal person residing in Romania, including public authorities.

Article 5

1. Commercial arrangements concluded with foreign parties consisting of acquisitions or sales of strategic goods which do not enter Romanian customs territory are also subject to the present Ordinance.

2. The transit of strategic goods through Romania shall be carried out in accordance with the customs legislation.

Article 6

1. The import and export of strategic goods shall be carried out on the basis of individual import and export licences.

2. General licences may be issued for commercial arrangements with parties in countries that promote principles similar to those referred to in Article 2.

Article 7

1. The importers and exporters of strategic goods shall apply on their own behalf at the Agency for import and export licences.

2. The licence applications shall be processed within 30 days from the day the applicant submitted the documents stipulated in the present Ordinance. In special cases this period may be extended by 15 days.

3. The persons referred to in paragraph 1 of this article are required to advise the Agency of any changes or differences noted in documents, as well as those noted when the strategic goods are handed or taken over, compared with the details stated in the licence. When such changes or differences alter the conditions for which the licence was issued, it shall be cancelled and the statement made about the changes or differences may be considered as a new application for a licence.

Article 8

1. Licences shall be valid for six months from the day they were issued. When an extension is necessary, the documents mentioned in the present Ordinance shall be re-confirmed by the authorities that issued them.

2. The licences can be used only by the applicant and cannot be transferred.

Article 9

The applications for licences shall be made, and the data and information regarding the import or export of strategic goods furnished by the importer or exporter shall be provided, by the natural persons or, depending on the case, by the managers of the legal persons.

Article 10

The importer or exporter has the obligation to declare the strategic goods and tender them for inspection only at the designated customs points.

Section II

The control regime with respect to parties in countries that have regulations similar to those in the present Ordinance

Article 11

1. Import Certificates and Delivery Control Certificates shall be used for imports of strategic goods from parties in countries that have regulations similar to those in the present Ordinance and promote principles corresponding to those in Article 2. The certificates shall be issued by the Agency.

2. By issuing the Import Certificate the Agency agrees to:

(a) Certify that the importer's statements are accurate and notify the legally empowered authorities of any untruth regarding the ultimate use of the strategic goods;

(b) Ensure that the use of strategic goods corresponds to the stated ultimate use;

(c) Enable the authority in the exporting country to make the necessary inspections regarding the import-related arrangements and actions;

(d) Provide to the authority in the exporting country, upon request, a Delivery Control Certificate;

(e) Observe, in accordance with international conventions, any other prerequisites specifically related to transfers of strategic goods.

3. The Delivery Control Certificate confirms that the goods have arrived at their destination in the quantities and with the technical specifications stated in the supporting documents and have been used as stated.

4. The importer shall deliver to his partner, upon request, the Delivery Control Certificate and a copy of the Customs Import Statement.

5. The General Customs Directorate shall provide further evidence that the import has been completed, upon the exporter's request for such confirmation.

Article 12

1. In cases of exports of strategic goods to parties in countries that have regulations similar to those in the present Ordinance and promote principles corresponding to those in Article 2, the exporter shall request the importer to obtain an Import Certificate or its equivalent from the authority in the importing country. This document shall be annexed to the application for an export licence.

2. The exporter shall obtain from his partner, after the goods have been delivered but not later than three months from the day of delivery, the Delivery Control Certificate or an equivalent document confirming that the goods have arrived at their destination. The exporter shall submit this document to the licensing authority within four months of the day of arrival.

Section III

The control regime with respect to parties in countries that do not have regulations similar to those in the present Ordinance

Article 13

No supporting document is required for the issuance of import licences for imports of strategic goods from countries that do not have regulations pursuant to the present Ordinance.

Article 14

1. The issuance of export licences for exports of strategic goods to countries that do not have regulations similar to those in the present Ordinance shall be subject to the submission of a declaration from the ultimate user or consignee and the importer or purchaser, in which they commit themselves to use the goods only in their country for the stated purposes and to enable the authority in the exporting country to inspect the ultimate destination.

2. The declaration shall be in writing and signed by the authorized legal representatives of the ultimate user or consignee and the importer or purchaser, as well as by those responsible for certifying the respective documents.

Section IV

The structure and functions of the control system

Article 15

1. The import and export control regime laid down in this Ordinance is operated by the Agency in collaboration with the ministries referred to in Article 17.

2. The structure and functions of the Agency shall be decided upon by Government Decision.

3. In order to carry out its responsibilities pursuant to paragraph 1 of this article, the Agency is empowered to:

(a) Examine and approve applications for imports and exports of strategic goods;

(b) Verify the accuracy and trustworthiness of statements made by persons importing or exporting strategic goods;

(c) Verify, in books and on site, when necessary, the relevant features of the arrangements, developments and completion of the imports or exports of strategic goods, as well as the observance of their ultimate use;

(d) Cooperate with its counterpart authorities abroad in accordance with the provisions of the present Ordinance;

(e) Evaluate and accept, when appropriate, the Import Certificate or its equivalent issued by the competent authorities in the importer's country, in order to issue the licence;

(f) Issue the Import Certificate and the Delivery Control Certificate for imports of strategic goods;

(g) Periodically inform the Government of Romania with respect to the commercial arrangements subject to the present Ordinance;

(h) Order the cessation of imports or exports of strategic goods, when the provisions of the present Ordinance are violated;

(i) Initiate, together with the competent institutions, the updating of strategic goods lists, in compliance with the international commitments Romania has pledged to abide by.

Article 16

1. In order to carry out its responsibilities the Agency shall set up a Control Unit, comprising its own specialists and, when necessary, other experts. The Agency shall bear the costs incurred for the control activities.

2. The Control Unit of the Agency shall have free access to the necessary documents and information required, irrespective of the holder, in order to carry out its control duties.

3. The persons referred to in Article 4 are required to provide the Agency, when it so requests and within the terms it decides, with any assistance or information necessary and to enable the Control Unit to gain access to their offices or company premises in connection with the examination of the relevant aspects of the arrangements, developments and completion of the import or export transactions, as well as to inform it about the use of the strategic goods subject to control.

4. The persons referred to in Article 4 are required to retain the documents relating to the strategic goods imported or exported for five years.

5. If, in carrying out its duties, the Agency obtains information that may constitute state, company or commercial secrets, it must respect its obligation of secrecy and disclose such information only to the competent authorities.

Article 17

1. An Inter-Ministry Council shall be established, within the strategic goods import and export control system, comprising representatives, at least at director level, of the Ministry of Foreign Affairs, Ministry of Finance, Ministry of National Defence, Ministry of the Interior, Ministry of Industries, Ministry of Trade, Ministry of Waters, Forests and Environmental Protection, Ministry of Justice, Department for European Integration and the Agency.

2. The Inter-Ministry Council shall examine and may approve the applications for licences for imports and exports of strategic goods, in keeping with the provisions of the present Ordinance.

3. The Ministry of Trade shall issue the licences, on the basis of the approval given by the Inter-Ministry Council.

Article 18

In order to have his application processed, an applicant for a licence who undertakes to import or export nuclear-related goods shall submit the import or export authorization issued by the Ministry of Waters, Forests and Environmental Protection - National Commission for Nuclear Activities Control, pursuant to the legislation in force.

Article 19

In order to have his application processed, an applicant for a licence to import or export weaponry, munitions or other military equipment shall submit the import or export authorization issued by the Ministry of National Defence, Department of Military Procurement, on the basis of its special regulations.

Article 20

1. In order to have applications for imports or exports of strategic goods processed, the Ministry of the Interior, Economic Investigation Division. shall provide the Agency with the information obtained directly as well as from other institutions empowered to gather intelligence in order to reveal crimes.

2. The Ministry of the Interior, Economic Investigation Division or the special criminal investigation institutions shall carry out proper research at the Agency's request, and shall inform it of legal measures to be taken.

Article 21

The Ministry of Finance, General Customs Directorate, shall have, in accordance with its responsibilities, the following tasks:

(a) To verify the supporting documents for imports and exports of strategic goods;

(b) To prevent, identify, inspect and penalize any infringements of the present Ordinance;

(c) To halt and inspect vehicles and in-transit goods, inspect trains, offices, commodities and warehouses, request identification evidence, inspect books and correspondence, request documents and information regarding imports or exports of strategic goods from any institution or person;

(d) To inspect the observance of the transportation and warehousing conditions of the strategic goods that are under customs custody;

(e) To secure the cooperation and assistance of any persons involved in the sale, distribution or transportation of the strategic goods in order to implement the provisions of the present Ordinance;

(f) To take possession of strategic goods that are under investigation until its completion.

Section V

Other provisions

Article 22

1. The Agency shall organize, with the assistance of the competent ministries, company awareness programmes on the objectives, principles, rules and procedures of the strategic goods import and export regime.

2. The Agency shall provide, upon request, specialized consultancy services to companies and persons interested in undertaking the import or export of strategic goods.

Article 23

The Agency's international cooperation pursuant to Article 15 shall have the following aims:

(a) To exchange reciprocal information and consult regarding the applications for imports or exports when there may be substantial evidence proving that the strategic goods could be used otherwise than stated;

(b) To update and harmoniously implement the regulations in this domain, including the strategic goods lists;

(c) To notify any infringements of the control regime committed by a foreign national or company so that it may be penalized by the competent authorities abroad.

Section VI

Penalties

Article 24

Any violation of the provisions of the present Ordinance regarding imports or exports of strategic goods as well as regarding the trustworthiness of the statements which by law constitutes a crime shall be punished by imprisonment in compliance with the provisions of the Penal Code.

Article 25

Any issuance of import or export licences for strategic goods without the observance of the provisions of the present Ordinance shall be considered and penalized as an administrative, disciplinary or penal offence, according to the law.

Article 26

Any failure to abide by the ultimate destination of the strategic goods, as stated in the documents, shall be considered an offence and shall carry a fine of between 500,000 and 5 million lei.

Article 27

Any violation of the provisions of Article 10, Article 12 (2) and Article 16 (3) shall be considered an offence, unless it is not considered a crime under the laws in force and shall be subject to a fine of between 100,000 and 500,000 lei.

Article 28

The Control Unit of the Agency or the customs officers shall consider and levy a fine, when applicable, for the offences referred to in Articles 26 and 27.

Article 29

Act No. 32/1968, on ascertaining and penalizing offences, is applicable to the offences referred to in the present Ordinance, excluding those referred to in Articles 25, 26 and 27.

Article 30

If the violation of the provisions of the present Ordinance may seriously prejudice the strategic goods imports and exports regime or the fulfilment of the commitments Romania has pledged to abide by, the competent authorities shall revoke the licence and, when necessary, the authorization to undertake the import and export of strategic goods.

Section VII

Final provisions

Article 31

1. The structure and functions of the Agency shall be modified and amended by Government Decision.

2. The strategic goods lists referred to in Article 1 shall be periodically updated by Government Decision.

3. The forms for Import Licence, Export Licence, Import Certificate and Delivery Control Certificate shall be decided upon by Government Decision.

4. The list of countries to which the provisions of Section II apply shall be decided upon and periodically updated by Government Decision.

Article 32

1. The present Ordinance shall take effect 15 days after its publication in the Official Gazette of Romania.

2. Any contrary provision shall be repealed on the day the Ordinance comes into force.

Bucharest, 29 July 1994, No. 31